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ABSTRACT

This report contains amendments to H.R. 4089, the "Veterans Educational and Vocational Counseling Amendments of 1990," which would amend Title 38, U.S. Code, with respect to educational and vocational counseling for veterans. The report describes major provisions, discusses the background of the bill, and provides a section-by-section analysis. A cost estimate by the Congressional Budget Office is also presented. The report concludes by showing changes in the texts of existing law made by the bill. (YLB)

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101ST CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
101-563

ED326706

VETERANS EDUCATIONAL AND VOCATIONAL COUNSELING AMENDMENTS OF 1990

JUNE 27, 1990.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MONTGOMERY, from the Committee on Veterans' Affairs, submitted the following

REPORT

[To accompany H.R. 4089]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 4089) to amend title 38, United States Code, with respect to educational and vocational counseling for veterans, and for other purposes, having considered the same, reports favorably thereon with amendments, by unanimous voice vote, and recommends that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 1, insert the following after line 2:

SECTION 1. SHORT TITLE.

This Act may be cited as "Veterans Educational and Vocational Counseling Amendments of 1990".

Page 1, line 3, strike out "SECTION 1." and insert in lieu thereof "SEC. 2.".

Page 4, strike out lines 7, 8, and 9 and insert in lieu thereof the following:

(b) REHABILITATION UNDER CHAPTER 31.—Section 1502(1)(B) of such title is amended by striking out "for a service-connected disability" and all that follows through "determines" and inserting in lieu thereof "or receiving outpatient medical care, services, or treatment for a service-connected disability pending discharge from the active military, naval, or air service, and the Secretary determines that (i) the hospital (or other medical facility) providing the hospitalization, care, services, or treatment

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either is doing so under contract or agreement with the Secretary concerned or is under the jurisdiction of the Secretary of Veterans Affairs or the Secretary concerned, and (ii) the person is suffering from a disability which".

Page 5, line 4, strike out "2" and insert in lieu thereof "3".

Page 5, after line 9, insert the following:

SEC. 4. ADMINISTRATION.

Section 413(b) of the Veterans Benefits Amendments of 1989 (Public Law 101-237) is amended by striking out "Through July 1, 1990, no" and inserting in lieu thereof "No".

Page 5, line 10, strike out "3" and insert in lieu thereof "5".

Page 5, line 11, strike out "Title" and insert in lieu thereof "(a) TITLE 38 AMENDMENTS.—Title".

Page 6, after line 9, insert the following:

(5) Section 1411(a)(3) is amended—

(A) by redesignating clause (C) as clause (D); and

(B) by striking out clauses (A) and (B) and inserting in lieu thereof the following:

"(A) continues on active duty;

"(B) is discharged from service with an honorable discharge;

"(C) is released after service on active duty characterized by the Secretary concerned as honorable service and is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list; or".

(6) Section 1774(a)(1)(A) is amended by striking out "chapters 106 and 107" and inserting in lieu thereof "chapter 106".

(b) TITLE 10 TECHNICAL AMENDMENT.—Section 2136(b) of title 10, United States Code, is amended by striking out "1434(b),", "1663,", and "1780(g),".

INTRODUCTION

On February 22, 1990, H.R. 4089, a bill designed to extend and improve educational and vocational counseling and vocational rehabilitation for veterans and servicepersons was introduced by the Honorable Timothy J. Penny, Chairman of the Subcommittee on Education, Training and Employment, and the Honorable Christopher Smith, Ranking Minority Member of the Subcommittee. Other cosponsors include Committee members G.V. (Sonny) Montgomery, Don Edwards, Douglas Applegate, Lane Evans, Harley Staggers, J. Roy Rowland, Charles Stenholm, Claude Harris, Joseph Kennedy II, Elizabeth Patterson, Jim Jontz, L.F. Payne, Bruce Morrison, George Sangmeister, Mike Parker, Ben Jones, Jill Long, Pete Geren, George Hochbrueckner, Bob Stump, John Paul Hammerschmidt, Chalmers Wylie, Bob McEwen, Dan Burton, Michael Bilirakis, Thomas Ridge, John Rowland, Robert C. Smith, Craig James, Cliff Stearns, and Bill Paxon. Additional cosponsors include Marvin Leath, W.G. (Bill) Hefner, Ed Jenkins and Bill Richardson.

The Subcommittee on Education, Training and Employment held a hearing March 8, 1990 to receive testimony on H.R. 4089. Witnesses at this hearing included Mr. Grady W. Horton, Deputy Chief Benefits Director for Program Management, accompanied by Dr. Dennis R. Wyant, Director, Vocational Rehabilitation and Education Service, Department of Veterans Affairs; and representatives of The American Legion, Disabled American Veterans, Military Order of the Purple Heart, and Paralyzed Veterans of America.

The Subcommittee met on May 3, 1990, and voted unanimously to recommend H.R. 4089, as amended, to the full Committee. On May 17, 1990, the full Committee approved the measure and ordered H.R. 4089, as amended, reported to the House.

Major Provisions of H.R. 4089, As Reported

The reported bill would:

1. Extend eligibility for educational and vocational counseling, guidance, testing, and other assistance from the Department of Veterans Affairs to:

   (a) an individual eligible for educational assistance under Chapter 30, 31, or 32 of title 38 or Chapter 106 of title 10, U.S. Code;

   (b) a veteran not eligible for education benefits and who requests counseling services within 1 year after discharge or release from active duty under conditions other than dishonorable;

   (c) an individual serving on active duty with the Armed Forces who is within 180 days of the estimated date of his or her discharge or release from active duty.

2. Extend eligibility for vocational rehabilitation under Chapter 31 to an individual pending discharge from active duty and receiving outpatient medical services, or treatment for a service-connected disability in a hospital or other medical facility which is under the jurisdiction of the Secretary of Veterans Affairs or the Secretary concerned or is under contract or agreement with the Secretary concerned to do so.

3. Require that handling charges paid under section 1504(a)(7), title 38, U.S. Code, be paid from readjustment benefit funds.

4. Require that a veteran pursuing on-the-job training or work experience as part of a vocational rehabilitation program in State or local government be paid the appropriate subsistence allowance for an institutional program provided for in Chapter 31, title 38, U.S. Code.

5. Repeal the required annual post-Vietnam era education assistance program (VEAP) and education loan default reports.

Background and Discussion of the Bill

Educational and Vocational Counseling

Under existing law, educational and vocational counseling are available to individuals who have eligibility for assistance under one of the education or rehabilitation programs administered by the Department of Veterans Affairs (DVA). H.R. 4089 would extend the benefits of counseling to servicepersons who are within 180 days of discharge or release from active duty and to veterans who

are not eligible for education benefits and who were discharged or released from active duty under other than dishonorable conditions if not more than one year has elapsed since the date of the discharge or release.

Congress has acknowledged the importance of providing employment and training services and information to servicepersons who are soon to be discharged or released from active duty. The Committee has received testimony from many individuals and organizations emphasizing the critical importance of assisting servicepersons to successfully move from active duty military service to the civilian workforce. Public Law 101-237, enacted on December 18, 1989, mandated a pilot program to provide such transition assistance to servicepersons within 180 days of discharge or release from active duty. This pilot program utilizes Department of Labor disabled veterans outreach specialists (DVOPs) and local veterans employment representatives (LVERs), veterans' employment specialists *ie* local job service offices. With significant reductions in military force levels a distinct possibility, the Committee believes it is equally important to give the Department of Veterans Affairs authority to provide educational and vocational counseling services to soon-to-be-discharged individuals to help them make appropriate educational and career choices and to assist them in the transition from military to civilian life. H.R. 4089 would provide that authority.

Under noncontributory education programs such as Chapter 34, most veterans were eligible for educational and vocational counseling during the entire period of their eligibility. These counseling services included assistance for veterans who were not planning to undertake training as well as for those who hoped to pursue educational or vocational schooling. Currently, this type of service is not available to veterans who choose not to participate in DVA education assistance programs. Making educational and vocational counseling generally available would help those who do not participate in education programs to select suitable educational and career opportunities. The Committee considers this to be another crucial part of the transition assistance provided by the Department of Veterans Affairs. Consequently, H.R. 4089 would allow the Department to provide educational and vocational counseling to all veterans with other than dishonorable discharges within one year of release from active duty.

Vocational Rehabilitation Under Chapter 31

Under existing law, servicepersons pending discharge from active duty, who have a service-connected disability and who are being treated in Department of Defense (DOD) facilities, are eligible for Chapter 31 vocational rehabilitation services. However, if those servicepersons are being treated in private facilities or government facilities other than ones operated by DOD, such as Public Health Service clinics or veterans hospitals, they are not eligible for vocational rehabilitation benefits. H.R. 4089 would allow DVA to provide this needed assistance to service-disabled active duty military personnel in non-DOD facilities.

Because the individuals who would be assisted under this provision are still on active duty, DOD is generally responsible for all

incurred medical costs, which may be paid directly or through some type of sharing or exchange-of-services agreement. Accordingly, it is appropriate that Chapter 31 services be extended to these servicemembers even though they are being treated in non-DOD medical facilities.

In addition, because servicepersons placed in non-DOD facilities are often in critical need of vocational rehabilitation, H.R. 4089 would permit the Department of Veterans Affairs to consider requests from these individuals on a more timely basis. Studies show that rehabilitation should begin as quickly as possible in order to have a reasonable chance of success. Comprehensive rehabilitation planning can also be initiated during the period of medical care and treatment and can be carried out in a coordinated manner. The provision of an integrated, comprehensive program of vocational rehabilitation services is crucial to a successful rehabilitation.

Handling Charges

Chapter 31, title 38, U.S. Code, allows DVA to pay for tuition, books, supplies, and handling fees for supplies required for an individual's rehabilitation. As the finance system is presently structured, payment for tuition, books and supplies is made from the readjustment benefits account, while payment of the handling fee for supplies is made from the general operating expenses account. The result is the issuance of two checks for a single billing received from an educational or training institution. This creates unnecessary and duplicative bookkeeping procedures and is often confusing to the institutions.

H.R. 4089 would consolidate the payment of the handling fees for supplies into the readjustment benefits account, resulting in fewer processing errors and savings in postage and other administrative expenses. Accounting procedures at educational and training institutions and DVA would be simplified.

Subsistence Allowance for Uncompensated Training

The monthly subsistence allowance paid to disabled veterans under Chapter 31, title 38, U.S. Code, for on-the-job training (OJT) is less than the allowance paid for institutional training. The rationale for paying a lower rate to OJT trainees is that these veterans are receiving additional income from their full-time employment. However, some disabled veterans are in OJT programs offered by governmental agencies which do not provide any salary or compensation. In addition, veterans in these unpaid OJT programs are not eligible to receive other income-type benefits, such as work study, which is available to veterans pursuing institutional training. Therefore, a provision to provide the institutional subsistence allowance rate to disabled veterans pursuing uncompensated OJT in Federal agencies was included in Public Law 96-466, enacted on October 16, 1980.

The provision in Public Law 96-466 (section 1508(c)(2), title 38, U.S.C.), however, only pertained to disabled veterans in unsalaried OJT programs offered by the Federal government. Disabled veterans in similar programs offered by State and local governments continue to receive the lower OJT subsistence allowance. The Committee believes that disabled veterans in these programs deserve

the same consideration and subsistence allowance as the veterans in uncompensated Federal government OJT programs. Accordingly, H.R. 4089 would provide the institutional monthly subsistence allowance rate to disabled veterans pursuing unsalaried OJT programs offered by State and local governments.

Chapter 32 Annual Report/Education Loan Default Annual Report

Section 1642, title 38, U.S. Code, requires DVA and DOD to submit an annual report detailing the operations of the Post-Vietnam Era Education Assistance Program (VEAP). This program is no longer open to new participants and has been replaced by the Montgomery GI Bill, Public Law 98-525, enacted on October 19, 1984. The Committee notes that the number of trainees under VEAP is declining and that DVA and DOD are experienced and capable in the administration and operation of the program. Additionally, information and data about the program are readily available from DVA and DOD, and will continue to be available in the future. Accordingly, the Committee believes the annual VEAP reports do not presently serve any useful purpose and are no longer necessary. H.R. 4089 would repeal the requirement for DVA and DOD to submit these annual reports.

Section 1798(e), title 38, U.S. Code, requires DVA to submit an annual report concerning education loan defaults. Education loans have historically experienced a high rate of default. However, these loans are now restricted to a few eligible individuals. In fiscal year 1989 only fourteen education loans were made, and it is anticipated that less than twenty such loans will be made annually. As a result, the number of new education loans listed in default has declined significantly in recent years. DVA has automated and centralized the handling of defaulted education loans and the Committee believes the Department has taken appropriate steps to monitor and control these loan defaults. Accordingly, the Committee concludes the annual report on education loan defaults is no longer necessary. H.R. 4089 would repeal the requirement for DVA to submit the annual report.

Computer Matching and Privacy Protection Act

DVA makes thousands of eligibility determinations each month in the administration of the Montgomery GI Bill and VEAP. In order to make these determinations quickly and accurately, the Department relies on computer data received from DOD. Under the Computer Matching and Privacy Protection Act, Public Law 100-503, DVA is prohibited from reducing or terminating a person's educational assistance benefit on the basis of DOD computer data until it has verified the DOD information. Verification would be accomplished by providing the benefit recipient a notice of the impending benefit reduction and providing him or her thirty days in which to submit information disputing the DOD computer data.

Because of problems with the implementation of the Act, Congress has twice postponed the effective date of Public Law 100-503. DVA is now scheduled to implement the provisions of the law on July 1, 1990. If these provisions are implemented, DVA will be required to continue to pay benefits to many individuals who are ac-

tually ineligible to receive them, thus creating education overpayments which the Department may not recover.

There are more than three million persons potentially eligible for education benefits. DVA is dependent on DOD information for the proper administration of these programs and for the timely and correct payment of education benefits to persons eligible under these programs. H.R. 4089 would enable DVA to continue administering these education programs as it has done in the past and would avoid the creation of additional overpayments.

Section-by-Section Analysis

Section 1.—The Act may be referred to as the "Veterans Educational and Vocational Counseling Amendments of 1990."

Section 2.—Section 2 would make several changes affecting educational and vocational counseling for veterans and the vocational rehabilitation program for service-disabled veterans. First, this section would amend chapter 36 of title 38 to add section 1797A. The new section would require the Secretary to make available to certain individuals, upon request, such counseling services and assistance (e.g., educational and vocational counseling, guidance, testing) as the Secretary determines are needed to help select an educational or vocational objective, as well as a school or training establishment at which to pursue the chosen objective, or an employment objective likely to provide satisfactory employment opportunities consistent with the individual's personal circumstances. The covered counseling services and assistance would be available to any individual eligible for educational assistance under chapters 30, 31, or 32 of title 38, or chapter 106 of title 10. Additionally, such services and assistance would be made available to any veteran who is not eligible for educational assistance and who requests counseling services within 1 year after discharge or release from active duty under conditions other than dishonorable and to servicemembers who are within 180 days of discharge or release from active duty under conditions other than dishonorable (including those who are undecided as to whether to continue as members of the Armed Forces). When the Secretary has rated an individual as being incompetent, the counseling services shall be provided to the individual before the selection of a program of eduction or training. The Secretary is responsible for acquainting eligible individuals with the availability and advantages of counseling services.

Next, section 2 would make certain conforming, technical, and clerical amendments. It would strike out section 1663 of chapter 34 (provisions of that section would be superseded by the new counseling provisions of section 1797A); strike references to section 1663 found in sections 1434(a)(1) and 1641(a)(1); amend section 1797(a) to specify that counseling services provided by contract to individuals pursuant to the new section 1797A will be paid from the Readjustment Benefits Account; and amend the table of sections for chapter 36 to add section 1797A to subchapter II of that chapter.

Third, this section would amend section 1502(1)(B) of title 38 to expand the category of servicepersons who are entitled to a program of rehabilitation under chapter 31 to those who, pending discharge or release from active duty, either are hospitalized in a

medical facility under the jurisdiction of the Department of Veterans Affairs or the military department concerned (including a medical facility under contract with the latter) or are receiving outpatient care, services or treatment from such a facility for a service-connected disability.

Fourth, section 2 would amend section 1504(a)(7) by designating the existing provisions as subparagraph (A), by including handling fees among the listed training expenses which chapter 31 assistance may be provided when necessary to accomplish rehabilitation program objectives in the individual case, and by adding a new subparagraph (B) to provide that all the services and assistance described in the newly designated subparagraph (A) would be paid from the Readjustment Benefits Account. These amendments would apply only to payments made on or after October 1, 1990, or after date of enactment, whichever is later.

Finally, section 2 would amend section 1508(c)(2) to specify that a chapter 31 veteran pursuing on-job training or work experience in a State or local governmental agency for no or nominal pay shall be paid subsistence allowance at the appropriate rate applicable to pursuit of institutional training, as is the case with similar training pursued as part of a rehabilitation program in a Federal agency.

Section 3.—Section 3 would repeal the requirements for two separate reports to the House and Senate Veterans' Affairs Committees. First, it would repeal a joint report of the Departments of Defense and Veterans Affairs concerning operation of chapter 32, the Post-Vietnam Era Veterans' Educational Assistance program, required by section 1642. Second, an annual report required by section 1798(e)(3) to be submitted by the Secretary concerning DVA's default experience under the chapter 36 education loan program would be repealed.

Section 4.—Section 4 of H.R. 4089 would amend section 413(b) of the Veterans Benefits Amendments of 1989 (Public Law 101-237) to make permanent the exemption of certain Department of Veterans Affairs/Department of Defense computer matches from the coverage of the Computer Matching and Privacy Protection Act of 1988 (Public Law 100-503).

Section 5.—Section 5 contains various technical amendments to title 38 and chapter 106 of title 10.

First, this section would provide that a chapter 30 "open period" enrollee (38 U.S.C. section 1418) may, in lieu of meeting the "secondary school completion" requirement, successfully complete the equivalent of 12 semester hours in a program of education leading to a standard college degree before the original ending date of the individual's initial obligated period of active duty.

Second, it would amend section 1433(b) to substitute a reference to chapter 109 of title 10 for an outdated reference to "section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. section 2141 note)."

Third, this section would clarify that chapter 106 participants in DVA's work-study program may engage in appropriate work-study activities not only at Department of Defense facilities but, also, at Selected Reserve (including National Guard) facilities.

Fourth, section 3013(a) would be amended to specify that the same award effective date provisions as apply to the title 38 education benefit program shall equally apply to education benefits paid to selected reservists under chapter 106 of title 10.

Fifth, a technical amendment would change the Montgomery GI Bill service separation conditions for chapter 30 entitlement purposes (section 1411(a)(3)(A) by clarifying that a release from active duty service characterized by the Secretary concerned as honorable service is a requirement for individuals placed on the retired list, transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or placed on the temporary disability retired list.

Sixth, this section would delete an erroneous reference to chapter 107 of title 10 found in the course approval provisions of section 1774(a)(1) of title 38 since chapter 107 contains no requirement that courses pursued thereunder must be approved by State approving agencies under the title 38 criteria.

Finally, section 5 would amend section 2136(b) of title 10 to clarify that the enrollment, pursuit, and attendance provisions found in section 1780(g) of title 38, as amended by Public Law 101-237, shall apply to administration of the chapter 106 educational assistance program for selected reservists under title 10.

Oversight Findings

No oversight findings have been submitted to the Committee by the Committee on Government Operations.

Congressional Budget Office Cost Estimate

The Committee received the following letter from the Congressional Budget Office on H.R. 4089.

U.S. Congress,
Congressional Budget Office,
Washington, DC, April 17, 1990.

Hon. G.V. Montgomery,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 4089, as introduced and referred to the Committee on Veterans' Affairs on February 22, 1990. CBO presently is not able to make an estimate of the effect of H.R. 4089 on the federal budget. The bill would not affect the budgets of state and local governments.

H.R. 4089 would amend Chapter 36—Administration of Educational Benefits—of title 38, United States Code, to provide educational and vocational counseling to any individual who is eligible for educational assistance under Chapters 30, 31, 32 or 106 and who was released from active duty not more than one year ago, or who is serving on active duty and is within 180 days of the estimated discharge date. These activities would be funded out of the funds currently available under section 1797—funding of contract educational and vocational counseling—of Chapter 36.

H.R. 4089 also would amend Chapter 31—Training and Rehabilitation for Veterans with Service Connected Disabilities—of title 38.

Currently, the Secretary of Veterans Affairs may use the facilities of any federal agency or state or local government agency receiving federal funds to provide training or work experience as part of a veteran"s vocational rehabilitation program. The law also provides that the federal government pay those veterans pursuing on-the-job training in a federal agency a subsistence allowance. This bill would permit the payment of the federal on-the-job subsistence allowance to those pursuing on-the-job training in state or local government agencies. The federal on-the-job subsistence allowance is $30 per month above the current subsistence allowance available to those pursuing on-the-job training in state and local government agencies. The staff of the Department of Veterans Affairs (VA) indicate that some veterans probably are training in state and local agencies, but that the VA lacks information regarding the number of veterans pursuing on-the-job training in federal or state and local government agencies. It is our understanding that this information will be available from VA in July 1990, however. Until that information is available, CBO is unable to estimate the federal cost of this provision.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Cory Leach (226-2820).

Sincerely,

ROBERT D. REISCHAUER,
Director.

INFLATIONARY IMPACT STATEMENT

The reported bill will have no inflationary impact in fiscal year 1990.

DEPARTMENT VIEWS

On March 8, 1990, the Deputy Chief Benefits Director of the Department of Veterans Affairs, Mr. Grady W. Horton, testified on H. R. 4089 before the Subcommittee on Education, Training and Employment as follows:

Mr. Chairman, I am pleased to comment today on legislation which you are currently considering for the chapter 31 program. A part of the proposed draft provides an opportunity for servicemembers who are within 180 days of separation and veterans who are within a period of up to 1 year following separation, and who may not otherwise be eligible for education benefits, to receive educational and vocational counseling through the VR&C program. We believe that this is a logical and reasonable approach to providing these individuals with the guidance they may need as they start a new phase of their lives. We would anticipate using our contract counseling resources for the majority of these cases.

A second part of this legislation addresses a "glitch" in title 38 which allows us to provide rehabilitation services to servicemembers who are in a hospital under the control of the Department of Defense while pending separation action due to disability, but does not allow us to carry out this activity if this same servicemember is in a VA facility. We believe that this proposed legislation corrects the problem. However, the language, as framed, addresses the care of the servicemember who is hospitalized, but does

not provide for those individuals who are in a medical holding status and are being provided medical care on an outpatient basis pending separation for disability. We believe that it would be appropriate to include these individuals in the authority to provide services. We agree without comment on the other provisions in the proposed legislation.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

* * * * * * *

CHAPTER 30—ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM

* * * * * * *

SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

§ 1411. Basic educational assistance entitlement for service on active duty

(a) Except as provided in subsection (c) of this section, each individual—

(1) * * *

* * * * * * *

(3) who, after completion of the service described in clause (1) of this subsection—

[(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

[(B) continues on active duty; or]

(A) continues on active duty;

(B) is discharged from service with an honorable discharge;

(C) is released after service on active duty characterized by the Secretary concerned as honorable service and is place on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list; or

[(C)] *(D)* is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Administrator concerned as honorable service;

is entitled to basic educational assistance under this chapter.

* * * * * * *

§ 1418. Opportunity for certain active-duty personnel to withdraw election not to enroll

(a) * * *

(b) An individual described in clauses (1) through (3) of subsection (a) of this section who made an election under section 1411(c)(1) or 1412(d)(1) of this title and who—

(1) * * *

* * * * * * *

(4) before completing such obligated period of service[,] *(i)* has completed the requirements of a secondary school diploma (or an equivalency certificate), *or (ii) has successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree*; and

* * * * * * *

SUBCHAPTER IV—TIME LIMITATION FOR USE OF ELIGIBILITY AND ENTITLEMENT; GENERAL AND ADMINISTRATIVE PROVISIONS

* * * * * * *

§ 1433. Bar to duplication of educational assistance benefits

(a) * * *

(b) A period of service counted for purposes of repayment under [section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note),] *chapter 109 of title 10* of an education loan may not also be counted for purposes of entitlement to educational assistance under this chapter.

* * * * * * *

§ 1434. Program administration

(a)(1) Except as otherwise provided in this chapter, the provisions of sections [1663,] 1670, 1671, 1673, 1674, 1676, 1682(g), 1683, and 1685 of this title and the provisions of subchapters I and II of chapter 36 of this title (with the exception of sections 1780(c), 1780(f), 1786(a), and 1787) shall be applicable to the provision of educational assistance under this chapter.

* * * * * * *

CHAPTER 31—TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

* * * * * * *

§ 1502. Basic entitlement

A person shall be entitled to a rehabilitation program under the terms and conditions of this chapter if such person—

(1)(A) is a veteran who has a service-connected disability which is, or but for the receipt of retired pay would be, compensable under chapter 11 of this title and which was incurred or aggravated in service on or after September 16, 1940, or (B) is hospitalized [for a service-connected disability in a hospital over which the Secretary concerned has jurisdiction pending discharge or release from active military, naval, or air service and is suffering from a disability which the Secretary determines] *or receiving outpatient medical care, services, or treatment for a service-connected disability pending discharge from the active military, naval, or air service, and the Secretary determines that (i) the hospital (or other medical facility) providing the hospitalization, care, services, or treatment either is doing so under contract or agreement with the Secretary concerned or is under the jurisdiction of the Secretary of Veterans Affairs or the Secretary concerned, and (ii) the person is suffering from a disability which* will likely be compensable under chapter 11 of this title; and

(2) is determined by the Secretary to be in need of rehabilitation because of an employment handicap.

* * * * * * *

§ 1504. Scope of services and assistance

(a) Services and assistance which the Secretary may provide under this chapter, pursuant to regulations which the Secretary shall prescribe, include the following:

(1) * * *

* * * * * * *

(7)*(A)* Vocational and other training services and assistance, including [(A)]*(i)* individualized tutorial assistance, tuition, fees, books, supplies, [and] *handling charges,* licensing fees, and equipment and other training materials determined by the Secretary to be necessary to accomplish the purposes of the rehabilitation program in the individual case, and [(B)]*(ii)* job-readiness skills development and counseling under section 14(a)(2) of the Veterans' Job Training Act (29 U.S.C. 1721 note) for a participant in a program of training under such Act.

(B) Payment for the services and assistance provided under subparagraph (A) of this paragraph shall be made from funds available for the payment of readjustment benefits.

* * * * * * *

§ 1508. Allowances

(a) * * *

* * * * * * *

(c)(1) * * *

(2) A veteran pursuing on-job training or work experience as part of a vocational rehabilitation program in a Federal, *State, or local*

governmental agency under the provisions of section 1515(a)(1) of this title without pay or for nominal pay shall be paid the appropriate subsistence allowance rate provided in subsection (b) of this section for an institutional program.

* * * * * * *

CHAPTER 32—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE

SUBCHAPTER I—PURPOSE; DEFINITIONS

Sec.
1601. Purpose.
1602. Definitions.

* * * * * * *

SUBCHAPTER IV—ADMINISTRATION

1641. Requirements.
[1642. Reporting requirements.]
1643. Deposits; reports.

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SUBCHAPTER IV—ADMINISTRATION

§ 1641. Requirements

(a)(1) The provisions of sections [1663,] 1670, 1671, 1673, 1674, 1676, 1683, 1685, and 1691(a)(1) of this title and the provisions of chapter 36 of this title (with the exception of section 1787) shall be applicable with respect to individuals who are pursuing programs of education while serving on active duty.

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[§ 1642. Reporting requirements

The Secretary and the Secretary of Defense shall submit a joint report each year to the Committees on Veterans' Affairs of the Senate and House of Representatives detailing the operations of the program provided for in this chapter during the preceding year. The report shall be submitted by January 15 of each year.]

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CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

SUBCHAPTER I—PURPOSE; DEFINITIONS

Sec.
1651. Purpose.
1652. Definitions.

SUBCHAPTER II—ELIGIBILITY AND ENTITLEMENT

1661. Eligibility; entitlement; duration.
1662. Time limitations for completing a program of education.
[1663. Educational and vocational counseling.]

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[§ 1663. Educational and vocational counseling

The Secretary shall make available to any eligible veteran, upon such veteran's request, counseling services, including such educa-

tional and vocational counseling and guidance, testing, and other assistance as the Secretary deems necessary to aid such veteran in selecting (1) an educational or training objective and an educational institution or training establishment appropriate for the attainment of such objective, or (2) an employment objective that would be likely to provide such veteran with satisfactory employment opportunities in light of such veteran's personal circumstances. In any case in which the Secretary has rated the veteran as being incompetent, such counseling shall be required to be provided to the veteran prior to the selection of a program of education or training. At such intervals as the Secretary deems necessary, the Secretary shall make available information respecting the need for general education and for trained personnel in the various crafts, trades, and professions. Facilities of other Federal agencies collecting such information shall be utilized to the extent the Secretary deems practicable. Secretary shall take appropriate steps (including individual notification where feasible) to acquaint all eligible veterans with the availability and advantages of such counseling services.]

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SUBCHAPTER IV—PAYMENTS TO ELIGIBLE VETERANS; VETERAN-STUDENT SERVICES

§ 1685. Work-study allowance

(a)(1) Individuals utilized under the authority of subsection (b) of this section shall be paid an additional educational assistance allowance (hereafter referred to as "work-study allowance"). Such work-study allowance shall be paid in an amount equal to the applicable hours minimum wage times the number of hours worked during the applicable period, in return for such individual's agreement to perform services, during or between periods of enrollment, aggregating not more than a number of hours equal to 25 times the number of weeks in the semester or other applicable enrollment period, required in connection with [(1)]*(A)* the outreach services program under subchapter IV of chapter 3 of this title as carried out under the supervision of a Department of Veterans Affairs employee, [(2)]*(B)* the preparation and processing of necessary papers and other documents at educational institutions or regional offices or facilities of the Department of Veterans Affairs, [(3)]*(C)* the provision of hospital and domiciliary care and medical treatment under chapter 17 of this title, [(4)]*(D)* any other activity of the Department of Veterans Affairs as the Secretary shall determine appropriate, or [(5)]*(E)* in the case of an individual who is receiving educational assistance under chapter 106 of title 10, activities relating to the administration of such chapter at Department of Defense facilities *or facilities of the Selected Reserve of the Ready Reserve*. An individual shall be paid in advance an amount equal to 40 per centum of the total amount of the work-study allowance agreed to be paid under the agreement in return for the individual's agreement to perform the number of hours of work specified in the agreement.

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CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

SUBCHAPTER I—STATE APPROVING AGENCIES

Sec.
1770. Scope of approval.

. . . . . .

SUBCHAPTER II—MISCELLANEOUS PROVISIONS

1781. Limitations on educational assistance.

. . . . . .

1797. Funding of contract educational and vocational counseling.
1797A. Educational and vocational counseling.

. . . . . .

SUBCHAPTER I—STATE APPROVING AGENCIES

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§ 1774. Reimbursement of expenses

(a)(1) Subject to paragraphs (2) through (4) of this subsection, the Secretary is authorized to enter into contracts or agreements with State and local agencies to pay such State and local agencies for reasonable and necessary expenses of salary and travel incurred by employees of such agencies and an allowance for administrative expenses in accordance with the formula contained in subsection (b) of this section in (A) rendering necessary services in ascertaining the qualifications of educational institutions for furnishing courses of education to eligible persons or veterans under this chapter and chapters 30 through 35 of this title and [chapters 106 and 107] *chapter 106* of title 10, and in the supervision of such educational institutions, and (B) furnishing, at the request of the Secretary, any other services in connection with such chapters. Each such contract or agreement shall be conditioned upon compliance with the standards and provisions of such chapters. The Secretary may also reimburse such agencies for work performed by their subcontractors where such work has a direct relationship to the requirements of such chapters, and has had the prior approval of the Secretary.

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SUBCHAPTER II—MISCELLANEOUS PROVISIONS

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§ 1797. Funding of contract educational and vocational counseling

(a) Subject to subsection (b) of this section, educational or vocational counseling services obtained by the Department of Veterans Affairs by contract and provided to an individual *under section 1797A of this title or to an individual* applying for or receiving benefits under section 524 or chapter 30, 32, 34, or 35 of this title, or chapter 106 of title 10, shall be paid for out of funds appropriated, or otherwise available, to the Department of Veterans Affairs for payment of readjustment benefits.

(b) Payments under this section shall not exceed $5,000,000 in any fiscal year.

§ 1797A. Educational and vocational counseling

(a) The Secretary shall make available to an individual described in subsection (b) of this section, upon such individual's request, counseling services, including such educational and vocational counseling and guidance, testing, and other assistance as the Secretary determines necessary to aid the individual in selecting—

(1) an educational or training objective and an educational institution or training establishment appropriate for the attainment of such objective; or

(2) an employment objective that would be likely to provide such individual with satisfactory employment opportunities in the light of the individual's personal circumstances.

(b) For the purposes of this section, the term "individual" means an individual who—

(1) is eligible for educational assistance under chapter 30, 31, or 32 of this title or chapter 106 of title 10;

(2) was discharged or released from active duty under conditions other than dishonorable if not more than one year has elapsed since the date of such last discharge or release from active duty; or

(3) is serving on active duty with the Armed Forces and is within 180 days of the estimated date of such individual's discharge or release from active duty under conditions other than dishonorable, including those who are making a determination of whether to continue as members of the Armed Forces.

(c) In any case in which the Secretary has rated the individual as being incompetent, the counseling services described in subsection (a) of this section shall be required to be provided to the individual before the selection of a program of education or training.

(d) At such intervals as the Secretary determines necessary, the Secretary shall make available information concerning the need for general education and for trained personnel in the various crafts, trades, and professions. Facilities of other Federal agencies collecting such information shall be utilized to the extent the Secretary determines practicable.

(e) The Secretary shall take appropriate steps (including individual notification where feasible) to acquaint all individuals described in subsection (b) of this section with the availability and advantages of counseling services under this section.

SUBCHAPTER III—EDUCATION LOANS

§ 1798. Eligibility for loans; amount and conditions of loans; interest rate on loans

(a) * * *

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(e)(1) * * *

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[(3) The Secretary shall submit to the appropriate committees of the Congress not later than December 31 of each year a report on the current results of the continuing review required by subsection (g)(1) of this section to be made regarding the default experience

with respect to loans made under this section and any steps being taken to reduce default rates on such loans. Such report shall include—

[(A) data regarding the cumulative default experience, and the default experience during the preceding fiscal year, with respect to such loans; and

[(B) data regarding the default experience and default rate with respect to loans made under this section.]

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CHAPTER 51—CLAIMS, EFFECTIVE DATES, AND PAYMENTS

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SUBCHAPTER II—EFFECTIVE DATES

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§ 3013. Effective dates of educational benefits

(a) Except as provided in subsection (b) of this section, effective dates relating to awards under chapters 30, 31, 32, 34, and 35 of this title *or chapter 106 of title 10* shall, to the extent feasible, correspond to effective dates relating to awards of disability compensation.

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SECTION 413 OF THE VETERANS BENEFITS AMENDMENTS OF 1989

SEC. 413. PROGRAM ADMINISTRATION.

(a) * * *

(b) [Through July 1, 1990, no] *No* provision of law shall preclude the Department of Veterans Affairs, in making determinations of the active-duty or Selected Reserve status, or the character of service, of individuals receiving benefits under chapter 30 or 32 of title 38, United States Code, or chapter 106 of title 10, United States Code, from continuing to use any category of information provided by the Department of Defense or Department of Transportation that the Department of Veterans Affairs was using prior to the date of the enactment of this Act, if the Secretary of Veterans Affairs determines that the information has proven to be sufficiently reliable in making such determinations.

SECTION 2136 OF TITLE 10, UNITED STATES CODE

§ 2136. Administration of program

(a) * * *

(b) Except as otherwise provided in this chapter, the provisions of sections [1434(b), 1663,] 1670, 1671, 1673, 1674, 1676, 1682(g), 1683, and 1685 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 1780(c), [1780(g),] 1786 (a), 1787, and 1792) shall be applicable to the provision of educational assistance under this chapter. The term "eligible veteran", and the term "a person", as used in those provisions,

shall be deemed for the purpose of the application of those provisions to this chapter to refer to a person eligible for educational assistance under this chapter.

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